



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ENVIRONMENTAL REVIEW
AND ASSESSMENT

December 3, 2018

Colonel Phillip Borders
Alaska District Engineer
U.S. Army Corps of Engineers
P.O. Box 6898
JBER, Alaska 99506-0898

Dear Colonel Borders:

The U.S. Environmental Protection Agency Region 10 has reviewed the Public Notice POA-2015-25, dated November 2, 2018, for a Department of Army permit under Section 404 of the Clean Water Act and Section 10 of the Rivers and Harbors Act. The applicant, Oil Search of Alaska, LLC, proposes to discharge fill into 261.3 acres of wetlands on the North Slope of Alaska to construct drilling pads, gravel roads and associated infrastructure for the production of oil to the Trans-Alaskan Pipeline System. The proposed project, known as the Nanushuk project, would include three gravel drill sites, a central processing facility, an operations center, a tie-in pad, infield pipelines on vertical support members, gravel access and infield roads, bridges, a potable water intake system, and a boat ramp and access road. The applicant has proposed compensatory mitigation.

This is the second Public Notice for the Nanushuk project. The first PN for POA-2015-25 was issued on September 1, 2017 concurrent with the Draft Environmental Impact Statement. At that time the prior applicant, Armstrong Energy LLC, proposed impacts to aquatic resources totaling 271.6 acres with project components similar to those identified above. The proposed boat ramp and access road are new to this second version of the project. In response to the initial PN, the EPA provided comments on November 13 and December 11, 2017, respectively. These letters identified areas of concern including: the identification of the least environmentally damaging practicable alternative; the need for additional avoidance and minimization analysis; and the lack of proposed compensatory mitigation.

The issuance of this second PN is concurrent with the release of the Final EIS. The PN and Final EIS reflect project changes and refinements that will result in a net reduction of 10.3 acres of impacts to aquatic resources compared to the original September 1, 2017 proposal. The EPA appreciates the efforts put forth to refine the project and reduce overall impacts to aquatic resources, which address a number of the concerns stated in the EPA's previous letters. The most notable changes to the proposed project include: reduction of all road widths to 32 feet; choosing Alternative 5 road route alignment; relocation of Drill Site 2 further from the Colville River; additional use of existing infrastructure; relocating infrastructure sites; and changes to proposed road side slopes from 3:1 to 2:1.

The current PN also includes two new project components: a boat ramp and a 1.4-mile-long access road that would connect the ramp to the roadways associated with the proposed project. These components would result in the loss of 10.3 acres of aquatic resources. They do not appear to meet the basic purpose of the proposed project and were not previously identified or studied. Without these new project components, the overall impacts would be 251 acres, which would result in a net reduction of 20.6 acres when compared to the project as originally proposed in the first PN. While the new project component

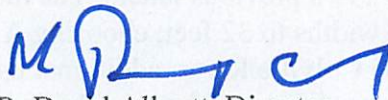
would increase aquatic resource impacts, the boat ramp is expected to aid in subsistence harvest and provide the population in Nuiqsut additional access to infrastructure during ice-free months. These components may thus comprise a separate activity having independent utility of the proposed project.

The current PN states that the Corps has determined that compensatory mitigation is appropriate for this project. The EPA concurs in this determination. The information provided in the document identifies avoidance and minimization measures, including many non-aquatic resource impacts. The document provides "mitigation concepts" which include: replacement or repair of existing culverts; rehabilitation of existing gravel infrastructure; removal of fill from flood plains; and preservation of aquatic resources. However, the document does not include details regarding the location, type, or amount of actual compensatory mitigation to be required. Without this information, the EPA cannot fully evaluate whether the proposed project complies with the §404(b)(1) Guidelines and cannot therefore provide the Corps with complete comments on project compliance with the Guidelines.

The application states that the applicant is in the process of refining its compensatory mitigation plan and will develop a plan for submittal to the Corps as part of the ongoing permit review process. The applicant notes that the plan will comply with the 2008 Mitigation Rule (33 CFR § 332.4(c)). The applicant also states it is considering mitigation opportunities over a larger scale watershed, as well as out-of-kind mitigation opportunities, and mitigation opportunities on public lands, consistent with the flexibilities articulated in the June 15, 2018 *Memorandum of Agreement between the Department of Army and the Environmental Protection Agency concerning Mitigation Sequence for Wetlands in Alaska*. Because the EPA has not had the opportunity to review and comment on the substantive plan for compensatory mitigation associated with the PN process for this project, we request to do so when it is submitted to the Corps as part of the ongoing permit process.

Thank you for the opportunity to provide comments on this second PN for the proposed Nanushuk project. We thank both the Corps and applicant for refining the project, which resulted in a reduction in aquatic resource impacts and addressing some of EPA's concerns identified in the first PN. The EPA understands and continues to support Alaska's desire to develop its energy sources in a responsible way that addresses the needs of Alaskans while also safeguarding its exceptional natural resources. I look forward to the opportunity to review and comment on the compensatory mitigation plan, once developed, and the continued coordination between the EPA and the Alaska District toward the Record of Decision and permit disposition. Should the Corps decide to issue the proposed permit, please forward a copy of the draft permit and decision document to the EPA as requested in our letter of December 11, 2017. Should you have any questions about this letter, please do not hesitate to contact me or have your staff contact Mark Douglas at (907)-271-1217, or by email at douglas.mark@epa.gov.

Sincerely,



R. David Allnutt, Director
Office of Environmental Review and Assessment